

NOV 30 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JEFFREY FRANKLIN,

Petitioner - Appellant,

v.

ROBERT HOREL,

Respondent - Appellee.

No. 07-15428

D.C. No. CV-06-06791-SI

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Susan Yvonne Illston, District Judge, Presiding

Submitted November 26, 2007^{**}

Before: LEAVY, BERZON, and TALLMAN, Circuit Judges.

On August 6, 2007, this court concluded that, to the extent a certificate of appealability is required in this appeal, the request for a certificate of appealability is denied. By same order, this court determined that, to the extent a certificate of

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

No. 07-15428

appealability is unnecessary because appellant's claim arises under 42 U.S.C.

§ 1983, appellant shall show cause as to why the district court's December 20, 2006, judgment should not be summarily affirmed.

A review of appellant's response to the court's order to show cause indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

AFFIRMED.